

**Court of Appeals, Division One**  
**Criminal**

**1 CA-CR 15-0113**

**STATE v. TOGSTAD**

**Appellate Case Information**

Case Filed: **24-Feb-2015**  
Case Closed:

**Dept/Composition**

**Department B**

Hon. Samuel A Thumma  
Hon. Maurice Portley  
Hon. John C Gemmill

**Side 1. STATE OF ARIZONA, Appellee**

(Litigant Group) STATE OF ARIZONA

- State of Arizona

**Attorneys for: Appellee**

Chris DeRose, Esq. (AZ Bar No. 23625)

**Side 2. VIRGIL MARVEL TOGSTAD, III, Appellant**

(Litigant Group) VIRGIL MARVEL TOGSTAD, III

- Virgil Marvel Togstad, III

**Attorneys for: Appellant**

Christopher V Johns, Esq. (AZ Bar No. 10021)

**CASE STATUS**

Oct 13, 2016.....Pending in ASC

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
MAR CR2010-006838-001	First Degree Murder, Class 1; First Degree Murder, Class 1; First Degree Murder, Class 1; First Degree Murder, Class 1	Natural Life; Natural Life; Natural Life; Natural Life	Bruce R Cohen, Sentencing	JURY	

**DESCENDENT CASE(S)**

ASC CR-16-0238-PR

**CASE DECISION**

**14-Jun-2016 MEMORANDUM DECISION**

Samuel Thumma.....Author  
Maurice Portley.....Concur  
John Gemmill.....Concur

Filed: **14-Jun-2016**

Mandate:

Decision Disposition

***Affirmed as Modified***

**75 PROCEEDING ENTRIES**

- 24-Feb-2015 FILED: Notice of Appeal from Maricopa County Superior Court filed 02/19/15. Notification to Court Reporters dated 02/23/2015.
- 2-Mar-2015 FILED: Courtesy Copy of Designation of Record for Appeal Filed in Superior Court (Appellant)
- 1-Apr-2015 FILED: Reporter's Transcript-11/12/14-Jury Trial- (Laura Ashbrook)
- 2-Apr-2015 ORDERED: Court Reporter Lynn D Cronin to file transcript of proceeding held on 10/15/2010 due by 05/04/2015. Hon Michael J Brown - Author
- 2-Apr-2015 ORDERED: Court Reporter Karen Dawson to file transcript of proceeding held on 11/17/2010 due by 05/04/2015. Hon Michael J Brown - Author
- 2-Apr-2015 ORDERED: Court Reporter Jovanna Roman to file transcripts of proceedings held on 03/11/11 and 04/25/2011 due by 05/04/2015. Hon Michael J Brown - Author
- 2-Apr-2015 ORDERED: Court Reporter Gail Ferguson to file transcripts of the proceedings held on 07/11/12, 08/08/12, 07/01/13, 07/18/13, 11/04/14, 11/05/14, 11/06/14, 11/17/14, 11/18/14, 11/19/2014, 11/20/14, 11/26/14, 12/08/14, 12/10/14, 12/11/14, 12/15/14, 12/16/14, 01/30/15 due by 05/04/2015. Hon Michael J Brown - Author

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8. 2-Apr-2015 ORDERED: Court Reporter Pamela D Remus to file transcript of proceeding held on 08/07/2012 due by 05/04/2015. Hon Michael J Brown - Author
9. 2-Apr-2015 ORDERED: Court Reporter Jennifer A Pancratz to file transcript of proceeding held on 09/19/2013 due by 05/04/2015. Hon Michael J Brown - Author
10. 2-Apr-2015 ORDERED: Court Reporter Michael A Babicky to file transcript of proceeding held on 03/18/2014 due by 05/04/2015. Hon Michael J Brown - Author
11. 3-Apr-2015 FILED: Reporter's Transcript-12-16-2014-Verdict-(Antoinette Salazar)
12. 3-Apr-2015 FILED: Reporter Transcript - Settlement Conference - 8/7/12 (Pamela Remus)
13. 3-Apr-2015 FILED: Reporter's Transcript - 09/19/2013 - hearing - (Jennifer Pancratz)
14. 3-Apr-2015 FILED: e-Record on Appeal:  
Instruments/Minute Entries: Combined  
Disposition Report: None  
Exhibits: None
15. 3-Apr-2015 FILED: Additional Record on Appeal  
Exhibits:  
Hearing Date 11/05/14 - List # 5 28 37 41 42 43 47 48 49 50 51 52 in a Box  
Hearing Date 01/30/15 - List # 1 2 3 4 in a box
16. 9-Apr-2015 FILED: Reporter's Transcript-12/11/14-Jury Trial- (Laura Ashbrook)
17. 10-Apr-2015 FILED: Reporter's Transcript - 03/11/2011 - Evidentiary Hearing (Jovanna Roman)
18. 10-Apr-2015 FILED: Reporter's Transcript - 04/25/2011 - Status Conference (Jovanna Roman)
19. 11-Apr-2015 FILED: Reporter's Transcript - 10/15/10 - Settlement Conference (Lynn Cronin)
20. 1-May-2015 FILED: Motion for Extension of Time to File Transcripts (Gail Ferguson)
21. 1-May-2015 FILED: Motion for Extension of Time to File Transcripts (Gail Ferguson) (DUPLICATE)
22. 8-May-2015 ORDERED: Motion for Extension of Time to File Transcripts (Gail Ferguson) = GRANTED. Due Dates EXTENDED to 06/08/2015 for Transcripts dated 11/05/2014, 11/06/2014, 11/17/2014, 11/18/2014, 11/19/2014, 11/20/2014, 11/26/2014, 12/08/2014, 12/10/2014, 12/11/2014, 12/15/2014, 12/16/2014, 01/30/2015, 07/11/2012, 08/08/2012, 07/01/2013, 07/18/2013, 11/04/2014 or OSC on 06/17/2015. Hon Michael J Brown - Author
23. 8-May-2015 ORDERED: OSC set for 05/20/2015 (Court Reporter Michael A Babicky)
24. 8-May-2015 ORDERED: OSC set for 05/20/2015 (Court Reporter Karen Dawson) Hon Michael J Brown - Author
25. 11-May-2015 FILED: Reporter's Transcripts 03/18/2014 (Michael Babicky)
26. 19-May-2015 FILED: Reporters Transcript (11/17/10 [Karen Dawson])
27. 5-Jun-2015 FILED: 07/11/2012 reporter's transcript - complex case management conference (gail ferguson)
28. 5-Jun-2015 FILED: 08/08/2012 reporter's transcript - complex case management conference set - (gail ferguson)
29. 5-Jun-2015 FILED: 07/01/2013 reporter's transcript - status conference - (gail ferguson)
30. 5-Jun-2015 FILED: 07/18/2013 reporter's transcript - status conference - (gail ferguson)
31. 5-Jun-2015 FILED: 11/05/2014 - reporter's transcript - trial - (gail ferguson)
32. 5-Jun-2015 FILED: 11/06/2014 - reporter's transcript - trial (gail ferguson)
33. 8-Jun-2015 FILED: reporter's transcript - 11/12/2014 - trial (gail ferguson)
34. 8-Jun-2015 FILED: reporter's transcript - 11/04/2014 - status conference (gail ferguson)

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35.	8-Jun-2015	FILED: reporter's transcript - 11/17/2014 - trial (gail ferguson)
36.	9-Jun-2015	FILED: reporter's transcript - 11/19/2014 - trial (gail ferguson)
37.	9-Jun-2015	FILED: reporter's transcript - 11/18/2014 - trial (gail ferguson)
38.	10-Jun-2015	FILED: reporter's transcript - 11/26/2014 - trial (gail ferguson)
39.	11-Jun-2015	FILED: reporter's transcript - 12/10/2014 - trial (gail ferguson)
40.	11-Jun-2015	FILED: reporter's transcript - 11/20/2014 - trial (gail ferguson)
41.	11-Jun-2015	FILED: reporter's transcript - 12/11/2014 - trial (gail ferguson)
42.	11-Jun-2015	FILED: reporter's transcript - 12/15/2014 - trial (gail ferguson)
43.	11-Jun-2015	FILED: reporter's transcript - 12/16/2014 - trial (gail ferguson)
44.	11-Jun-2015	FILED: reporter's transcript - 12/08/2014 - trial (gail ferguson)
45.	11-Jun-2015	FILED: reporter's transcript - 01/30/2015 - sentencing (gail ferguson)
46.	12-Jun-2015	FILED: Notice of Completion of Record
47.	23-Jun-2015	FILED: Motion to Compel; Certificate of Service (Appellant)
48.	30-Jun-2015	ORDERED: Motion to Compel (Appellant) = GRANTED/Court Reporter Michael Babicky to provide transcript of proceedings held on 3/18/14. Anthony Mackey ProTem Judge - Author
49.	28-Jul-2015	ORDERED: Opening Brief due date EXTENDED from Monday, 07-27-2015 to Wednesday, 08-26-2015. Fred Cole ProTem Judge - Author
50.	26-Aug-2015	FILED: Motion to Consolidate and Continue; Certificate of Service (Appellant)
51.	1-Sep-2015	ORDERED: Motion to Consolidate and Continue (Appellant) = DENIED. FURTHER ORDERED: Opening Brief due date EXTENDED to 09/30/15. Anthony Mackey ProTem Judge - Author
52.	30-Sep-2015	FILED: Motion to Continue (Opening Brief); Certificate of Service (Appellant)
53.	2-Oct-2015	ORDERED: Motion to Continue (Opening Brief) (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 09-30-2015 to Monday, 11-02-2015. Anthony Mackey ProTem Judge - Author
54.	2-Nov-2015	FILED: Motion to Continue (Opening Brief); Certificate of Service (Appellant)
55.	5-Nov-2015	ORDERED: Motion to Continue (Opening Brief) (Appellant) = DENIED. FURTHER ORDERED: On the courts own motion the Opening Brief be filed on or before 11/16/2015 or OSC on 11/18/2015. Anthony Mackey ProTem Judge - Author
56.	12-Nov-2015	FILED: Motion to Continue, Vacate Order to Show Cause and Sanctions, and Request Complex Case Designation; Certificate of Service (Appellant)
57.	17-Nov-2015	ORDERED: Granting the motion and directing court reporter Michael Babicky, if he has not already done so, to forthwith provide a copy of the transcript of proceedings held on March 18, 2014, to appellant's counsel. Anthony Mackey ProTem Judge - Author (VACATED per order dated 11/18/15)
58.	18-Nov-2015	ORDERED: Vacating this court's order dated November 17, 2015. Anthony Mackey ProTem Judge - Author
59.	18-Nov-2015	ORDERED: Extending Opening Brief for Atty Christopher Johns to 12:00 noon on Friday, 12/11/2015. FURTHER ORDERED: If Opening Brief is not filed by the above-specified date/time, monetary sanctions in the form of \$100.00 per day shall begin on Monday, December 14, 2015. FURTHER ORDERED: Sanctions shall increase to \$200.00 per day beginning December 21, 2015, if the Opening Brief is not filed by that date. Hon Samuel A Thumma - Author
60.	4-Dec-2015	FILED: Appellant's Opening Brief; Certification of Compliance with Rule 31.13(b), ARCP; Certificate of Service (Appellant)
61.	17-Dec-2015	FILED: Notice of Appearance; Certificate of Service (Appellee)

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| 62. | 20-Jan-2016 | ORDERED: Answering Brief due date EXTENDED from Tuesday, 01-19-2016 to Thursday, 02-18-2016. Fred Cole ProTem Judge - Author       |
| 63. | 16-Feb-2016 | FILED: Appellee's Answering Brief; Certificate of Compliance; Certificate of Service (Appellee)                                    |
| 64. | 29-Feb-2016 | FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days                |
| 65. | 10-Mar-2016 | FILED: Supplemented Superior Court e-Record with Revised Index of Record (Includes copy of transcript filed directly with COA1)    |
| 66. | 14-Mar-2016 | ORDERED: Reply Brief due date EXTENDED from Monday, 03-14-2016 to Thursday, 03-31-2016. Fred Cole ProTem Judge - Author            |
| 67. | 31-Mar-2016 | FILED: Appellant's Reply Brief; Certification of Compliance with Rule 31.13(b), ARCP; Certificate of Service (Appellant)           |
| 68. | 31-Mar-2016 | CLNDR: CONFERENCE, Department B, 5-24-16, COURTROOM 2.   |
| 69. | 14-Jun-2016 | MEMORANDUM DECISION (Affirmed as Modified) Hon Samuel A Thumma - Author; Hon Maurice Portley - Concur; Hon John C Gemmill - Concur |
| 70. | 14-Jun-2016 | FILED: Memorandum Decision Distribution List   |
| 71. | 29-Jun-2016 | FILED: ASC Order filed 06/29/2016 re: extending time for filing Petition for Review to 08/15/2016                                  |
| 72. | 16-Aug-2016 | FILED: ASC Order filed 08/16/2016 re: extending time for filing Petition for Review to 09/14/2016.                                 |
| 73. | 8-Sep-2016  | FILED: ASC Order filed 09/08/2016 re: extending time for filing Petition for Review to 10/14/2016                                  |
| 74. | 13-Oct-2016 | FILED: Email Notice from ASC re: Petition for Review filed 10/12/16; request for partial record                                    |
| 75. | 13-Oct-2016 | FILED: Letter forwarding partial record to Arizona Supreme Court   |